

REMARKS

Applicants respectfully request favorable reconsideration of this application, as amended. Claims 1, 2, 4-14, 16, 18, 20, 22, 23, 25, 27-29, 31-33, 35, 37-39, 41, 42, 44-49, 51-53, and 55-64 are currently pending. By this amendment, Claims 17, 19, 21, 24, 26, 30, 34, 36, 40, 43, 50 and 54 have been canceled, Claims 7-10, 42, 44-49, 51 and 52 have been amended to define expressions as required by the Office Action. Therefore, Applicants believe the § 112, second paragraph, rejections from the Office Action dated May 15, 2008 are overcome by the amendments and respectfully request that a Notice of Allowance to that effect be issued.

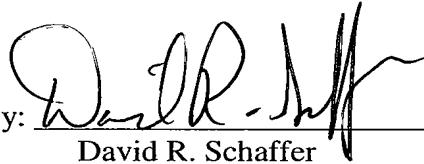
Applicants would like to renew their Request to Withdraw Final Rejection filed on August 15, 2008, but not yet acted upon. Applicants assert that the current Final Rejection is improper and should be withdrawn. Upon checking PAIR, Applicants note the May 15, 2008 Office Action is listed as a “Non-Final Rejection” (see Appendix A, IFW printout), but the document identified as being Non-Final is actually a Final Rejection (see Office Action, Appendix B). Also, please note on August 15, 2008 an entry for a Miscellaneous Incoming Letter (see Appendix C), which is a copy of Applicant’s Request to Withdraw the Final Rejection. To date, no response has been sent or received.

Regardless, in order to preserve their rights Applicants are filing this response and a Notice of Appeal. Applicants request that the Examiner immediately withdraw the finality of the Rejection. Attached hereto also please find a Request for Refund of the Notice of Appeal Fee, which was filed to preserve the Applicants’ rights, but is not believed to be correctly so.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicants’ representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T3386-906538) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

By: 

David R. Schaffer
Reg. No. 43,089

Date: November 14, 2008

Miles & Stockbridge, P.C.
1751 Pinnacle Drive,
Suite 500
McLean, Virginia 22102-3833
(703) 903-9000

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click PDF.

Bibliographic Data

Mail Room Date	Document Code	Document Description	Document Category	Page Count
08-15-2008	LET.	Miscellaneous Incoming Letter	PROSECUTION	3
08-15-2008	N417	EFS Acknowledgment Receipt	PROSECUTION	2
05-17-2008	OA.EMAIL	Email Notification	PROSECUTION	1
05-15-2008	CTNF	Non-Final Rejection	PROSECUTION	5
05-15-2008	FWCLM	Index of Claims	PROSECUTION	2
02-11-2008	A...	Amendment/Req. Reconsideration-After Non-Final Reject	PROSECUTION	1
02-11-2008	CLM	Claims	PROSECUTION	29
02-11-2008	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	1
02-11-2008	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	2
02-11-2008	N417	EFS Acknowledgment Receipt	PROSECUTION	2
09-11-2007	CTNF	Non-Final Rejection	PROSECUTION	9
09-11-2007	892	List of references cited by examiner	PROSECUTION	1
09-11-2007	FWCLM	Index of Claims	PROSECUTION	1
09-11-2007	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
06-18-2007	A...	Amendment/Req. Reconsideration-After Non-Final Reject	PROSECUTION	1
06-18-2007	CLM	Claims	PROSECUTION	35
06-18-2007	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	5
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12-18-2006	CTNF	Non-Final Rejection	PROSECUTION	8
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12-18-2006	BIB	Bibliographic Data Sheet	PROSECUTION	1
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12-18-2006	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
12-10-2006	SRNT	Examiner's search strategy and results	PROSECUTION	7
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11-07-2000	PEFR	Applicant Response to Pre-Exam Formalities Notice	PROSECUTION	3
11-07-2000	CFILE	Request for Corrected Filing Receipt	PROSECUTION	2
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06-28-2000	LET.	Miscellaneous Incoming Letter	AS FILED	49
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06-28-2000	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
06-28-2000	IDS	Information Disclosure Statement (IDS) Filed (SB/08)	PROSECUTION	3
06-28-2000	NPL	NPL Documents	PRIOR ART	1
06-28-2000	FRPR	Certified Copy of Foreign Priority Application	PROSECUTION	1
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/604,919	06/28/2000	Olivier Miakinen	T3386-906538	6435
181	7590	05/15/2008	EXAMINER	
MILES & STOCKBRIDGE PC			TRUONG, LAN DAI T	
1751 PINNACLE DRIVE				
SUITE 500			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102-3833			2152	
			NOTIFICATION DATE	DELIVERY MODE
			05/15/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com
sstiles@milesstockbridge.com

Office Action Summary	Application No.	Applicant(s)
	09/604,919	MIAKINEN, OLIVIER
	Examiner	Art Unit
	LAN-DAI Thi TRUONG	2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02/11/2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,4-14 and 16-64 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,2,4-14 and 16-64 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. This action is response to communications: application, filed on 11/07/2000; amendment filed 02/11/2008. Claims 1-2, 4-14, 16-64 are pending; claims 1, 6, 12-14, 16-27, 62-64 are amended; claims 3, 15, 65 are canceled.

Claim Objections

2. Claims 17, 19, 21, 24, 26, 30, 34, 36, 40 and 54 are objected to because of the following informalities: those claims are depended on canceled independent claim 15. Appropriate corrections are required.

Claim rejections-35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-10 and 42-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 9 and 42-48:

Applicant fails to provide clear definitions for the follow expressions (i.e. C1(I), C2(I), Cn(i); I1-0(i).I2-0(i)... In-0(i)). Without disclosures of definitions for those expressions, how would one of ordinary skill in the art determine functionalities for those expressions. The appropriate corrections are required.

Regarding claims 10 and 49-52:

Applicant fails to provide clear definitions for the follow expressions (i.e. i; p; Jp(i); Jp; Cp(i); Ik; I1.I2; Ik_0(i)). Without disclosures of definitions for those expressions, how would one of ordinary skill in the art determine functionalities for those expressions. The appropriate corrections are required.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAN-DAI Thi TRUONG whose telephone number is (571)272-7959. The examiner can normally be reached on Monday- Friday from 8:30am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob A. Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

05/08/2008.

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2152

<i>Index of Claims</i>		Application/Control No.	Applicant(s)/Patent Under Reexamination
		09604919	MIAKINEN, OLIVIER
Examiner		Art Unit	
LAN-DAI T TRUONG		2152	

<input checked="" type="checkbox"/> Rejected	<input type="checkbox"/> Cancelled	<input type="checkbox"/> N Non-Elected	<input type="checkbox"/> A Appeal
<input type="checkbox"/> = Allowed	<input type="checkbox"/> ÷ Restricted	<input type="checkbox"/> I Interference	<input type="checkbox"/> O Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant			<input type="checkbox"/> CPA	<input type="checkbox"/> T.D.	<input type="checkbox"/> R.1.47
CLAIM		DATE			
Final	Original	05/08/2008			
	1	✓			
	2	✓			
	3	-			
	4	✓			
	5	✓			
	6	✓			
	7	✓			
	8	✓			
	9	✓			
	10	✓			
	11	✓			
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	13	✓			
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	31	✓			
	32	✓			
	33	✓			
	34	✓			
	35	✓			
	36	✓			

<i>Index of Claims</i>		Application/Control No.	Applicant(s)/Patent Under Reexamination
		09604919	MIAKINEN, OLIVIER
Examiner		Art Unit	
LAN-DAI T TRUONG		2152	

<input checked="" type="checkbox"/> Rejected	<input type="checkbox"/> Cancelled	<input type="checkbox"/> N Non-Elected	<input type="checkbox"/> A Appeal
<input type="checkbox"/> = Allowed	<input type="checkbox"/> ÷ Restricted	<input type="checkbox"/> I Interference	<input type="checkbox"/> O Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant			<input type="checkbox"/> CPA	<input type="checkbox"/> T.D.	<input type="checkbox"/> R.1.47	
CLAIM		DATE				
Final	Original	05/08/2008				
	37	✓				
	38	✓				
	39	✓				
	40	✓				
	41	✓				
	42	✓				
	43	✓				
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	65	-				

**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE – EXAMINING GROUP 2152**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

First Named Inventor: Olivier MIAKINEN Art Unit: 2152
Application No.: 09/604,919 Examiner: Lan Dai T. Truong
Filed: June 28, 2000 Confirmation No.: 6435
For: **METHOD FOR REMOTE
INTERROGATION OF SNMP AGENTS**

* * *

REQUEST TO WITHDRAW FINAL REJECTION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In regards to the Finality of the Office Action of May 15, 2008, the Applicant respectfully requests that it be withdrawn and reissued as a Non-Final Office Action. Applicant believes that it was improper to issue the Office Action as a Final Action, because, contrary to the Examiner's assertion on page 3 of the Office Action, the Section 112, second paragraph, grounds for rejection of Claims 9, 10 and 42-52 were not necessitated by Applicant's February 11, 2008 amendment. Quite to the contrary, no amendments were made to Claims 9, 10 and 42-52, the expressions objected to in the claims were in the originally presented claims, and this is the first time any rejection or objection to the expressions has been issued by the Examiner. Therefore, because the

expressions were not just presented in the previous amendment, they can not validly be used by the Examiner to make the current Office Action final. Additionally, the Examiner has failed to provide detailed reasons for why all of the claims in the application are now rejected. This is especially confusing, because in the prior Office Action, the Examiner had indicated that Claims 1, 12, 13 and 62 would be allowable if rewritten as proposed, which was done in Applicant's February 11, 2008 Amendment. However, the outstanding Office Action lists all of the claims as being rejected on page 2, but no details are provided in the Detailed Action section for Claims 1, 2, 4-8, 11-14, 16-41, and 53-64, which should be allowed.

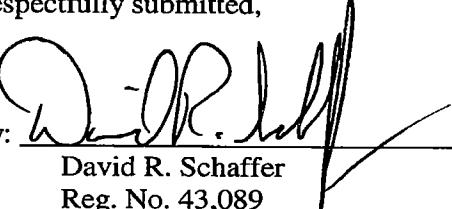
Applicant's undersigned representative had several telephone calls with the Examiner beginning on April 21, 2008 to discuss the claims and the need to cancel Claims 17, 19, 21, 24, 26, 30, 34, 36, 40, 43, 50 and 54, because they all ultimately depend from now canceled Claim 15 and that definitions for variables in at least Claims 9 and 10 were needed. Please note that Claims 43 and 50 of Applicant's list are in addition to those noted by the Examiner, but also need to be canceled as both ultimately depend from canceled Claim 15. On April 22, 2008, Applicant's undersigned representative called the Examiner and, per the prior calls with the Examiner, left a voicemail message authorizing the Examiner to issue an Examiner's Amendment to cancel Claims 17, 19, 21, 24, 26, 30, 34, 36, 40, 43, 50 and 54, to enable the application to pass to allowance.

On May 5, 2008, to make sure the Examiner's request for additional definition was clearly understood, Applicant's representative called the Examiner and again left a message asking the Examiner to issue a NON-Final Office Action specifically explaining which variables needed to be and how they needed to be defined. Unfortunately, this was not done and the outstanding Final Office Action was issued on May 15, 2008.

On August 15, 2008, Applicant's representative called and spoke with the Examiner about withdrawing the Finality of the Office Action and the Examiner requested Applicant submit a written request to that effect. Therefore, this request is being submitted pursuant to that request.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T3386-906538) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

By: 
David R. Schaffer
Reg. No. 43,089

Date: August 15, 2008

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